

Highlights of the Final NEPA Procedures

Forest Service procedures for implementing the National Environmental Policy Act (NEPA) are now included in the Code of Federal Regulations (CFRs).

- Placing Forest Service NEPA procedures in the Code of Federal Regulations is consistent with other federal agencies. (36 CFR, Part 220.)

The Forest Service NEPA procedures emphasize open and transparent decision making.

The NEPA regulations ensure the public has a voice in Forest Service decisions about its on-the-ground activities and that those decisions are well documented and fully disclosed to the public. The regulations:

- Maintain the long-standing practice of requiring public scoping for all NEPA proposals and encourage public participation throughout project planning.
- Allow the responsible official to modify a proposed action or alternatives as the analysis progresses and requires such modifications to be made in an open and transparent process obvious to all interested parties.
- Allow “adaptive management” proposals and alternatives so that Forest Service decisions are more responsive to the uncertainties of natural resource management.

The Forest Service NEPA procedures have been updated and clarified in the CFRs to:

- Incorporate current Council of Environmental Quality (CEQ) guidance that:
 - Recognize that emergency situations sometimes require immediate responses and provide for alternative procedures.
 - Clarify what past actions to consider in a cumulative effects analysis.
 - Clarify how to document alternatives considered in environmental assessments.
- Incorporate current Forest Service decision making processes such as more in depth public engagement and interaction.
- Consolidate in one-location descriptions of when Forest Service proposed actions are subject to NEPA.

The Forest Service did not make any changes to the categorical exclusions that were formerly in the directives system.

- The categorical exclusions in the NEPA procedures regulations are the same as were described in the former Forest Service Handbook 1909.15. No categories were added or deleted. (36 CFR 220.6)

- The categorical exclusion for hazardous fuels treatments (CE 10) is currently the subject of judicial review.
 - The hazardous fuels treatment category will be retained in the NEPA procedures subject to the continued instructions of the Chief that Forest Service officials must refrain from use of this category while the litigation remains unresolved. Once the judicial process has been concluded, the category either will remain or be removed, depending upon the litigation's outcome.

Additional background about the use and intent of CEs.

- Categorical exclusion is defined by the Council on Environmental Quality (CEQ) regulations as "...a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency... and for which, therefore, neither an environmental assessment nor an environmental impact statement is required." (40 CFR 1508.4)
 - Categorical exclusions are used for routine actions that have been found by the agency through experience and environmental review to have no significant environmental effects either individually or cumulatively.
 - Forest Service procedures for categorical exclusions are developed in consultation with the Council on Environmental Quality along with public review and comment.
 - The Forest Service NEPA procedures regulations restrict the use of categorical exclusions when an action normally excluded from EIS or EA documentation may have a significant environmental effect. Categorical exclusions do not apply where there are extraordinary circumstances, such as adverse effects on threatened and endangered species or their designated critical habitat; wilderness areas; inventoried roadless areas; wetlands; impaired waters; national recreation areas; and archaeological, cultural, or historic sites.

The Forest Service is also publishing its NEPA guidance handbook (FSH 1909.15) which provides guidance and instruction on how to carry out the NEPA Procedures rule.

- The Forest Service is retaining certain guidance about how to conduct NEPA analysis in the Forest Service Directives System. When guidance in the Directives System requires updating or other modification, the Forest Service will be able to respond more quickly to new ideas, new information, interpretations of procedures, training needs, and editorial changes. The Directives System does not include items that require Council of Environmental Quality review and concurrence.